



Position Papers and Future Partnership Papers on the UK's Future Relationship with the EU Debate on 12 September 2017

Summary

On 12 September 2017, the House of Lords is due to debate a motion moved by Baroness Anelay of St Johns, Minister of State at the Department for Exiting the European Union, that “this House takes note of the position papers and future partnership papers published by Her Majesty’s Government on the United Kingdom’s future relationship with the European Union”.

This short briefing provides an overview of the position papers and future partnership papers that the Government has published to date, as well as the EU’s response. The House of Commons Library briefing [Brexit: The August Negotiations](#), 6 September 2017, provides further detail about the latest negotiating round; in particular section 5 summarizes the proposals made in the papers the Government published over the summer and section 6 includes a table showing on which issues either the UK, the EU or both have published a paper.

UK Government Papers

On 6 September 2017, David Davis, Secretary of State for Exiting the European Union, made a written ministerial statement detailing the Brexit negotiation papers the Government had published during Parliament’s summer recess:

Over the summer, the Government has published a series of papers setting out key issues that form part of the Government’s vision for the future deep and special partnership between the UK and the EU.

Each paper reflects the engagement the Government has sought from external parties with expertise in these policy areas, drawing on the very extensive work undertaken across government since last year’s referendum. Taken together, these papers are an essential step towards building a new partnership to promote our shared interests and values.

These future partnership papers published to date are:

- [Future customs arrangements](#) (15 August);
- [Providing a cross-border civil judicial cooperation framework](#) (22 August);
- [Enforcement and dispute resolution](#) (23 August); and
- [The exchange and protection of personal data](#) (24 August).

Today [6 September 2017] we are publishing the next paper in this series: [Collaboration on science and innovation](#).

Since the start of summer recess, the Government has also published position papers in advance of formal negotiation rounds with the EU, and technical notes to support the negotiations.

The position papers are:

- [Northern Ireland and Ireland](#) (16 August);
- [Confidentiality and access to documents](#) (21 August); and
- [Continuity in the availability of goods for the EU and the UK](#) (21 August).

The technical notes are:

- [Spent fuel and radioactive waste](#) (28 August);
- [Existing contracts for the supply of nuclear material](#) (28 August);
- [Functionality and Protocol 7](#) (28 August); and
- [The comparison of EU-UK positions on citizens' rights](#) (joint technical note) (first published 20 July; updated 31 August).¹

These papers followed several published in June and July 2017, ahead of the second round of formal Brexit negotiations that took place between 17 and 20 July 2017:

26 June 2017	Safeguarding the position of EU citizens in the UK and UK citizens in the EU	Position Papers
13 July 2017	Ongoing union judicial and administrative proceedings	
	Nuclear materials and safeguards	
	Privileges and immunities	
	Implementing the withdrawal agreement	Technical note

When Parliament returned after the summer recess, Mr Davis gave an update in the House of Commons on the Brexit negotiation rounds that had taken place during July and August.² He explained that the sub-groups dealing with technical separation issues “made progress in a number of specific areas, and drew on papers that the UK published ahead of both rounds”.³ These separation issues included: privileges and immunities; confidentiality on shared information; nuclear materials; legal cases pending before the European Court of Justice; judicial cooperation in civil and commercial matters; ongoing judicial cooperation in criminal matters; and goods on the market. Mr Davis also noted that the joint technical note comparing the two sides’ positions on citizens’ rights had been updated following the August round.⁴ He said it “underlines both a significant alignment between our positions and provides clarity on areas where we have not, as yet, reached agreement”.⁵

Mr Davis explained how the ‘future partnership’ papers the Government had published over the summer differed from the position papers and technical notes:

Alongside the negotiations, we have also published a number of papers which set out our thinking regarding our future special partnership with the EU. These future partnership papers are different

from our papers that set out the position for the negotiations under our withdrawal agreement. Our future partnership papers are part of a concerted effort to pragmatically drive the progress we all want to see. All along, we have argued that talks around our withdrawal cannot be treated in isolation from the future partnership that we want. We can only resolve some of these issues with an eye on how the new partnership will work in the future.⁶

He cited Northern Ireland and the financial settlement as examples of this type of issue.⁷ Mr Davis said that the future partnership papers were “designed to make points to our European partners so that they could see what the future might look like under our vision”.⁸ Mr Davis said that his team would “publish further papers in the coming weeks, continuing to set out our ambition for these negotiations, and the new deep and special partnership the UK wants to build with the EU”.⁹

Keir Starmer, the Shadow Secretary of State for Exiting the European Union, asserted that the position papers the Government had published over the summer were “riddled with further fantasies” and that Mr Davis himself had acknowledged they represented “merely ‘blue sky thinking’”. He argued that the “time for floating fantastical ideas [was] over” and questioned when he would see “position papers that actually set out the Government’s considered position on key issues”.

EU Response to UK Papers

Senior EU figures have been critical of aspects of the UK’s position papers. Speaking at a conference of EU Ambassadors on 29 August 2017, Jean-Claude Juncker, President of the European Commission, said that he had read all the UK’s papers and “none of those is actually satisfactory”.¹⁰ Mr Juncker said there were “an enormous amount of issues still to be settled”, and insisted that the negotiations would stick to a phased approach:

We need to be crystal clear that we will commence no negotiations on the new relationship particularly the new economic and trade relationship between the EU and the UK before all these questions are resolved—that is to say the divorce between the UK and the EU.¹¹

At a press conference at the start of the August round of talks, Michel Barnier, the EU’s chief negotiator said that:

We need UK positions on all separation issues, this is necessary to make sufficient progress. We must start negotiating seriously. We need UK papers that are clear in order to have constructive negotiations. And the sooner we remove the ambiguity, the sooner we will be in a position to discuss the future relationship and a transitional period.¹²

This was taken by many as an allusion to the fact that the UK has not published a position paper on the financial settlement (the so-called ‘divorce bill’), one of the key issues that the EU has identified as a priority area for the first phase of negotiations. At the end of the August negotiating round, whilst acknowledging there was “engagement” on both sides, Mr Barnier declared that: “At the current speed, we are far from being able to recommend to the European Council that there has been sufficient progress in order to start discussions on the future relationship, while we are finalising the withdrawal agreement throughout 2018”.¹³ He described some of the measures outlined in the UK’s position papers—such as the freedom for the UK to adopt its own standards and regulations but to have them automatically recognised by the EU—as “simply impossible”, stating that “you cannot be outside the single market and shape its legal order”. He said there was a need to build further trust between the two sides on the issues of citizens’ rights and the financial settlement. Echoing Mr Juncker’s comments about the

negotiation phases, Mr Barnier emphasised that his negotiating mandate from the EU was clear in that: “It sets out the sequencing. It requires that work be done in the right order to succeed”.

Regarding the fact that the UK has not published a position paper on the financial settlement, David Davis has previously drawn a distinction between matters where he saw the initiative as resting with the EU, and where the initiative rested with the UK. He told the House of Lords European Union Committee:

[...] financial settlement is the Commission’s ask [...] we are now going through that line by line, almost word by word, to see how much we think it stands up. Remember what we have said: we have said that we will meet our international responsibilities and expect others to meet their responsibilities to us. Those are two sides. That does not mean we are going to accept verbatim what they make as their first claim; we will go through it piece by piece. Where we were putting forward a counterproposal, or a proposal, as in the case of citizens’ rights, we published a detailed and extensive paper [...] For something like the financial settlement, we will go through it in session and debate it with the Commission. At the end, we may well publish an alternative proposal, but at the moment the proper approach, to get the right outcome in the negotiation, is to challenge what it is doing. It will vary piece by piece.¹⁴

The EU has been publishing its own position papers on a number of issues, the latest tranche of which were published on 7 September 2017.

Further Information

- Department for Exiting the European Union, ‘[Article 50 Negotiations with the EU](#)’, accessed 7 September 2017 (position papers published by the UK)
- European Commission, ‘[Negotiating Documents on Article 50 Negotiations with the United Kingdom](#)’, accessed 7 September 2017 (position papers published by the EU)
- House of Commons Library, [Brexit: The August Negotiations](#), 6 September 2017
- House of Commons Library, [Brexit: The July Negotiations](#), 2 August 2017
- [Statement by David Davis, Secretary of State for Exiting the European Union on ‘EU Exit Negotiations’](#), HC *Hansard*, 5 September 2017, cols 42–5

¹ House of Commons, '[Written Statement: Publications on the UK's Future Partnership with the European Union](#)', 6 September 2017, HCWS111.

² [HC Hansard, 5 September 2017, cols 42–5.](#)

³ *ibid.*, col 43.

⁴ *ibid.*, col 42.

⁵ *ibid.*

⁶ *ibid.*, col 45.

⁷ *ibid.*

⁸ *ibid.*, col 47.

⁹ *ibid.*, col 45.

¹⁰ Jon Stone, '[Britain's Brexit Papers are not Good Enough, EU President Jean-Claude Juncker Says](#)', *Independent*, 29 August 2017.

¹¹ *ibid.*

¹² Jennifer Rankin, '[EU's Brexit Negotiator Tells UK to Speed Up and 'Get Serious'](#)', *Guardian*, 29 August 2017.

¹³ European Commission, '[Speech by Michel Barnier at the Press Conference Following the Third Round of Article 50 Negotiations with the United Kingdom](#)', 31 August 2017.

¹⁴ House of Lords European Union Committee, '[Corrected Oral Evidence: David Davis Evidence Session, 11 July 2017](#)', 1 August 2017, Q2.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to purvism@parliament.uk.